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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,580	12/08/2003	Alan R. Pfaff JR.	123869/1	2103

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EXAMINER

HAMILTON, ISAAC N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,580

Applicant(s)

PFAFF, ALAN R.

Examiner

Isaac N Hamilton

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/08/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, how can the die plate be fixedly mounted and adjustably mounted? It is understood that if the die plate is adjustably mounted, then the die plate is not fixed at any position. For instance, if the die plate 18 is tightened about the die cylinder 14 by the top fasteners 28 at the location of the mounting holes 50, there will be some rotation of the die plate 24 about the pin 24 due to the unsymmetrical tension produced by the three top fasteners 28 as shown in figure 2. Therefore, if there is rotation of the die plate 18 about pin 24, then the die plate is fixedly mounted at the first position.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cracchiolo et al (5,088,367), hereafter Cracchiolo. Cracchiolo discloses rotary die cylinder 10; die plate 30; first position as shown in figure 4 when the die plate 30 is fixedly mounted to the rotary die cylinder; second position in figure 3 when the die plate 30 is adjustably mounted to the

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rotary die; external eccentric 56, 48, 58, 60; opening in cylinder 52; rotation of the eccentric about the first axis adjusts the position of the die plate with respect to the cylinder in column 3, lines 55-59; central opening 60; mounting pin 44; die plate opening 46.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 8-10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cracchiolo in view of Warner (3,122,048). Cracchiolo discloses rotary die cylinder 10; die plate 30; and internal eccentric 56; first position as shown in figure 4 when the die plate 30 is fixedly mounted to the rotary die cylinder; second position in figure 3 when the die plate 30 is adjustably mounted to the rotary die; opening in cylinder 52; mounting pin 44; opening in die plate 46. Cracchiolo does not disclose an external eccentric, however, Warner teaches external eccentric 34. It would have been obvious to provide an external eccentric in Cracchiolo as taught by Warner in order to provide a greater range of adjustment. Further note in Warner, first axis is in the geometric center of eccentric 34; central opening 35; second die cylinder and second die plate in figure 1 of Cracchiolo; thin material 16; second axis is at the geometric center of element 48; top fastener 58, 60, 48.

Regarding claim 10, the combination of Cracchiolo and Warner discloses the claimed invention except for four openings with corresponding top fasteners. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide four

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openings with corresponding top fasteners, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. It would have been obvious to provide four openings with corresponding top fasteners in the combination in order to stabilize the die plate during adjusting.

7. Claims 1-5, 7-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cracchiolo in view of Le (4,789,287). Cracchiolo discloses rotary die cylinder 10; die plate 30; first position as shown in figure 4 when the die plate 30 is fixedly mounted to the rotary die cylinder; second position in figure 3 when the die plate 30 is adjustably mounted to the rotary die; internal eccentric 56; opening in cylinder 52; rotation of the eccentric about the first axis adjusts the position of the die plate with respect to the cylinder in column 3, lines 55-59; central opening 60; mounting pin 44; die plate opening 46. Cracchiolo does not disclose an external eccentric, however, Le teaches external eccentric 4. It would have been obvious to provide an external eccentric in Cracchiolo as taught by Warner in order to provide a greater range of adjustment. Further note in Le, first axis is in the geometric center of eccentric 4; central opening 8; second die cylinder and second die plate in figure 1 of Cracchiolo; thin material 16; second axis is at the geometric center of element 48; top fastener 58, 60, 48.

Regarding claim 10, the combination of Cracchiolo and Le discloses the claimed invention except for four openings with corresponding top fasteners. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide four openings with corresponding top fasteners, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v.*

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Bemis Co., 193 USPQ 8. It would have been obvious to provide four openings with corresponding top fasteners in the combination in order to stabilize the die plate during adjusting.

Allowable Subject Matter

8. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IH

IH
March 18, 2005

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Allan N. Shoap
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